IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 33104 of 2006(N)

PETITIONER:

PRASANTH LAL. G.S.,
HIGH SCHOOL ASSISTANT (MATHS),
PPTMY HIGHER SECONDARY SCHOOL,
CHERUR, MALAPPURAM.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:

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1. THE DISTRICT EDUCATIOAL OFFICER,
TIRUR, MALAPPURAM.

2. DEPUTY DIRECTOR OF EDUCATION,
MALAPPURAM.

3. DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM.

4. STATE OF KERALA, REP. BY THE SECRETARY
TO THE GOVERNMENT, EDUCATIONAL DEPARTMENT,
TRIVANDRUM.

5. THE MANAGER, PPTMY HIGHER
SECONDARY SCHOOL, CHERUR P.O.,
VENGARA, MALAPPURAM.

BY ADV. SRI.M.C.RATNAKARAN
GOVT.PLEADER SRI.K.V.MANOJKUMAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE APPOINTMENT ORDER DT. 16.9.2002 ISSUED BY THE 5TH RESPONDENT.

EXT.P2 : COPY 0F THE GO(MS) 11/02/G.EDN. DT. 7.1.2002 ISSUED BY THE 4TH RESPONDENT.

EXT.P3 : COPY OF THE APPEAL DT. 14.10.2003 FILED BEFORE THE THIRD RESPONDENT.

EXT.P4 : COPY OF THE ORDER NO.EM4/10927/04/DPI/KDIS DT. 17.5.2004.

EXT.P5 : COPY OF THE ORDER GO(RT) NO.2316/06/G.EDN. DT. 6.6.2006.

EXT.P6 : A COPY OF THE COMMUNICATION NO.B5-1508/2006 DT. 22.3.2006 ISSUED BY THE DEO.

EXT.P7 COPY OF THE GO(RT) NO.1205/07/G.EDN. DT. 17.3.2007.

TGS

KURIAN JOSEPH J.

Writ Petition (Civil) No.33104 of 2006

Dated 6th November, 2007.

J U D G M E N T

Petitioner is aggrieved since his appointment under the 5th respondent is not approved with effect from 16.9.2002. The approval is denied on the basis of Ext.P2 Government Order. It is submitted that Ext.P2 cannot be pressed into service, in view of the judgment of this Court in **Suguna Prakash v. State of Kerala** (2002(3) KLT 488). Subsequently, the said judgment was set aside by the Division Bench of this court in **Anitha John v. Eldhose Mathew** (2003(1) KLJ 116). The appointment of the petitioner is during the interregnum. It is submitted that there was no legal impediment in approving the appointment at the relevant time and a subsequent development cannot affect the appointment of the petitioner. It is also pointed out that in exactly similar situations, the Government has approved the appointment of several teachers. One such instance is pointed out in Ext.P7, in the case of one Sreejith. In case the petitioner is similarly situated as the person covered by Ext.P7, there is no point in discriminating the petitioner. Accordingly, the writ

petition is disposed of quashing Exts.P4 and P5 and directing the 4th respondent to consider the case of the petitioner afresh, and in case the petitioner is similarly situated as the teacher referred to in Ext.P7, similar benefits shall be extended to the petitioner also. The needful shall be done in the matter, within three months from the date of production of a copy of the judgment along with a copy of the amended writ petition.

KURIAN JOSEPH, JUDGE.

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